

Department of Veterans Affairs

§ 17.505

(13) Documents and reports developed during or as a result of safety monitoring not directly related to the care of specified individual patients;

(14) Documents and reports developed during or as a result of resource management activities not directly related to the care of specified individual patients; and

(15) Information and records derived from patient medical records or facility administrative records, which are not protected by 38 U.S.C. 5705 and the regulations in §§17.500 through 17.511, may be sent or communicated to a third party payor who has asked for this information in response to a VA request for reimbursement based on Public Law 99-272 and Public Law 101-508. Reviews conducted at the request of the third party payor do not generate records protected by 38 U.S.C. 5705 and the regulations in §§17.500 through 17.511 since the reviews are not undertaken as part of the VA's quality assurance program.

(Authority: 38 U.S.C. 5705)

§ 17.502 Applicability of other statutes.

(a) Disclosure of quality assurance records and documents which are not confidential and privileged under 38 U.S.C. 5705 and the confidentiality regulations in §§17.500 through 17.511 will be governed by the provisions of the Freedom of Information Act, and, if applicable, the Privacy Act and any other VA or federal confidentiality statutes.

(b) When included in a quality assurance review, confidential records protected by other confidentiality statutes such as 5 U.S.C. 552a (the Privacy Act), 38 U.S.C. 7332 (drug and alcohol abuse, sickle cell anemia, HIV infection), and 38 U.S.C. 5701 (veterans' names and addresses) retain whatever confidentiality protection they have under these laws and applicable regulations and will be handled accordingly. To the extent that information protected by 38 U.S.C. 5701 or 7332 or the Privacy Act is incorporated into quality assurance records, the information in the quality assurance records is still protected by these statutes.

(Authority: 38 U.S.C. 5705)

§ 17.503 Improper disclosure.

(a) Improper disclosure is the disclosure of confidential and privileged healthcare quality assurance review records or documents (or information contained therein), as defined in §17.501, to any person who is not authorized access to the records or documents under the statute and the regulations in §§17.500 through 17.511.

(b) "Disclosure" means the communication, transmission, or conveyance in any way of any confidential and privileged quality assurance records or documents or information contained in them to any individual or organization in any form by any means.

(Authority: 38 U.S.C. 5705)

§ 17.504 Disclosure methods.

(a) Disclosure of confidential and privileged quality assurance records and documents or the information contained therein outside VA, where permitted by the statute and the regulations in §§17.500 through 17.511, will always be by copies, abstracts, summaries, or similar records or documents prepared by the Department of Veterans Affairs and released to the requestor. The original confidential and privileged quality assurance records and documents will not be removed from the VA facility by any person, VA employee or otherwise, except in accordance with §17.508(c) or where otherwise legally required.

(b) Disclosure of confidential and privileged quality assurance records and documents to authorized individuals under either §17.508 or §17.509 shall bear the following statement: "These documents or records (or information contained herein) are confidential and privileged under the provisions of 38 U.S.C. 5705, which provide for fines up to \$20,000 for unauthorized disclosures thereof, and the implementing regulations. This material shall not be disclosed to anyone without authorization as provided for by that law or the regulations in §§17.500 through 17.511."

(Authority: 38 U.S.C. 5705)

§ 17.505 Disclosure authorities.

The VA medical facility Director, Regional Director, Under Secretary for